

Unreasonably Destitute?

Asylum Support Appeals Project

How UKBA is failing to support refused asylum seekers
unable to leave the UK through no fault of their own

*A report by ASAP into the difficulties of obtaining Section 4 Support for
refused asylum seekers taking reasonable steps to leave the UK*

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Asylum Support Appeals Project (ASAP) is an advocacy organisation working to end destitution amongst asylum seekers in the UK by defending their legal rights to food and shelter. ASAP provides free legal advice and representation to asylum seekers in their asylum support appeals when their housing and financial support has been refused or terminated, as well as second-tier legal advice and training on asylum support law for refugee community organisations. ASAP's policy work and strategic litigation work aims to change inhumane asylum policies which are forcing many asylum seekers into long-term destitution.

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Executive Summary

One of the main functions of Section 4 is to provide support for refused asylum seekers considered as taking all reasonable steps to leave the UK. ASAP's extensive work with Section 4 has demonstrated that UK Border Agency (UKBA, formerly NASS) is failing to provide support to many refused asylum seekers that should qualify under this criteria. This failure is resulting in the unacceptable destitution of refused asylum seekers who are unable to leave the UK through no fault of their own.

This report looks at why UKBA is failing to grant these individuals support. The evidence and case studies have been drawn from ASAP's work representing refused asylum seekers at the Asylum Support Tribunal (AST) and from calls to its Advice Line from organisations assisting destitute asylum seekers across the UK.

In 2007 ASAP assisted 246 individuals appealing against UKBA's decision to either refuse or withdraw support. The appeals were heard at the AST, based in East Croydon. In the same year ASAP responded to 506 calls from organisations requesting advice on asylum support issues, including appeals. Over 90% of the work undertaken by ASAP relates to Section 4 support.

The report looks briefly at the main limitations of Section 4 and then considers the particular qualifying criterion 'taking all reasonable steps to leave the UK'. Case studies highlight the difficulties individuals have trying to access support due to the criterion's rigid interpretation by UKBA.

One of main concerns arising from this report is the failure of the Home Office to acknowledge the various barriers that prevent thousands of refused asylum seekers from physically leaving the UK. With no way of returning and no hope of regularising their stay here, these individuals are left stranded in the UK, often without any means of support.

Introduction

The Immigration and Asylum Act 1999 created a separate system of support for asylum seekers in the UK. As a result, from April 2000 asylum seekers have been unable to claim mainstream welfare benefits. Instead, asylum seekers apply for what is known as asylum support. This consists of financial support and housing provided by the Home Office.

Until April 2007 asylum support was administered by the National Asylum Support Service (NASS). Following a major restructuring of the Home Office in April 2007, NASS, as a department, ceased to exist. UK Border Agency (UKBA) now handles applications for support from asylum seekers and deals with all asylum claims.

This paper looks at the barriers facing refused asylum seekers trying to access Section 4 support. It focuses on the unrealistically high qualifying criterion of 'taking all reasonable steps to leave the UK' and argues that UKBA's policies are contributing to destitution among refused asylum seekers.

When support for refused asylum seekers stops

Support for asylum seekers ends 21 days after the person has received a final negative decision on his/her asylum claim. This includes any appeals made against the initial refusal by the Home Office. The only exception is an asylum seeker who has dependent children in their household before their asylum claims are finally determined. In this case, the person continues to be entitled to support until they are either removed from the UK or they leave voluntarily. Apart from this exception, asylum seekers whose claims for asylum have been refused are expected to return voluntarily to their countries of origin. Those who do not return voluntarily risk being detained and forcibly removed from the UK.

With no recourse to any form of public funds, most refused asylum seekers who remain in the UK are likely to become destitute.

It is hard to quantify the exact numbers of refused asylum

Based on our findings, ASAP recommends:

- UKBA develops clear, realistic and practical guidelines concerning what constitutes 'taking all reasonable steps to leave the UK'
- UKBA suspends the policy of regularly reviewing an individual's Section 4 support where there is evidence that the person has done all in their power to leave the UK
- UKBA recognises that there are certain countries to which refused asylum seekers cannot return at the moment
- UKBA offers a temporary form of leave to individuals where there is clear evidence that they are unable to leave the UK
- UKBA provides support to individuals who appear to be stateless and who have demonstrated that there is no country that is willing to accept them as their national
- UKBA recognises that many embassies are often unwilling to provide evidence that an individual has approached them and applied for a travel document, or evidence that they refused to recognise someone as their national
- UKBA recognises that where the International Organisation for Migration is unable to assist someone to voluntarily return due to problems with travel documents, this person is unlikely to be able to return by other means so should be considered as having taken all reasonable steps to leave the UK

seekers living in the UK. The National Audit Office's report in 2005 on Home Office procedures for returning refused asylum seekers estimated between 155,000 and 283,500 refused asylum seekers in the UK.¹ This figure was calculated by subtracting the number of removals from the number of asylum seekers who have had their asylum applications refused.

What is clearer, however, is that a substantial number of refused asylum seekers in the UK are living in destitution. This is backed by a growing body of research. In 2006 Amnesty International and Refugee Action released two seminal reports outlining the scale of the problem and the impact destitution was having on this group². Refused asylum seekers interviewed as part of the research 'revealed lives on the margins of society, abject poverty and individual struggles to survive with whatever help could be found'³. Many also reported that their health had deteriorated and that in 'the most extreme it had led some individuals to self harm and attempt suicide'⁴.

Regardless of these problems many refused asylum seekers choose to remain in the UK. There are various reasons for this, but concern for security in the country of return is likely to be a major contributing factor. For example, there are currently several thousand refused asylum seekers from Iraq and Zimbabwe in the UK despite a wealth of objective information documenting the serious security and economic problems in those countries. Home Office statistics for 2006 show that only around 11% of Iraqis and Zimbabweans who claimed asylum were awarded leave to remain⁵. The vast majority are refused any leave to remain and are informed that they must leave the UK.

What happens if refused asylum seekers cannot leave the UK?

This report is concerned with refused asylum seekers that are physically unable to leave the UK through no fault of their own. This includes:

- *Stateless people, who*
 - a) *are not considered to be a national of any country or*
 - b) *have been deliberately stripped of their nationality*
- *People whose nationality is in dispute*

Even where nationality is not in dispute, a common problem faced by some groups of refused asylum seekers is the inability to obtain the travel documents necessary to re-enter their countries. In many cases, embassies are either unable or unwilling to provide them with these documents. This may be because the embassy requires proof which the individual is unable to obtain, such as a national ID card or an original birth certificate.

¹ National Audit Office, Returning failed asylum applicants, July 2005

² Refugee Action The Destitution Trap : Research into destitution amongst refused asylum seekers in the UK 2006, Amnesty International: Down and Out in London November 2006

³ Refugee Action The Destitution Trap : Research into destitution amongst refused asylum seekers in the UK 2006,

⁴ Refugee Action The Destitution Trap : Research into destitution amongst refused asylum seekers in the UK 2006,

⁵ <http://www.homeoffice.gov.uk/rds/pdfs07/hosb1407.pdf>

Unable to leave the UK: a narrow definition

In a limited number of circumstances, individuals at the end of the asylum process can access Section 4 support. The power to provide Section 4 support (originally known as hard case support) was introduced under the Immigration and Asylum Act 1999. However, regulations setting out the criteria for support were not introduced until March 2005. The regulations also introduced the right to appeal against a refusal of Section 4 support or a withdrawal of support when UKBA believes the applicant is no longer entitled⁶.

Due to the narrowness of its eligibility criteria, it is very difficult for a refused asylum seeker to access Section 4 support, regardless of any impediments they may face around returning. As of December 2007 there were approximately 9,140 individuals in receipt of Section 4 support⁷. Compared to the number of refused asylum seekers believed to be present in the UK, this figure represents a drop in the ocean.

In general, to obtain Section 4 support the person will need to show that they are either taking 'all reasonable steps to leave to UK', or that there is some other temporary reason/barrier preventing them from leaving the UK. Currently this is limited to:

- those who are too ill to undertake international travel
- those who have outstanding representations with the Home Office, such as a fresh claim and
- those who have permission to proceed with a judicial review to the High Court

Issues such as fear of return, statelessness or difficulties obtaining a travel document are not accepted as reasons preventing the person from leaving the UK.

In 2007, the Joint Committee on Human Rights' report on the treatment of asylum seekers described the Section 4 support scheme as 'inhuman and inefficient'⁸.

One of the major shortcomings of Section 4 is that from the outset it has been considered a temporary form of support. Official guidelines provided by the UKBA state that 'Section 4 support is intended as a limited and temporary form of support for people who are expected

To qualify for Section 4 support, a refused asylum seeker must meet one of the following criteria, as set out in regulation 3(2) of The Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005:

- *The person is taking all reasonable steps to leave the UK*
- *The person is unable to leave the UK due to physical impediment to travel or for some other medical reason*
- *The person is unable to travel because in the opinion of the Secretary of State there is currently no viable route of return available*
- *The person has applied for judicial review in regards to a decision relating to his or her asylum claim and has been granted permission to proceed (England & Wales)*
- *It is necessary to avoid a breach of the persons Convention Rights within the meaning of the Human Rights Act 1998*

⁶ Asylum and Immigration (Treatment of Claimants) Act 2004

⁷ Home Office Asylum Statistics: 4th Quarter 2007 (October to December)

⁸ Joint Committee on Human Rights: The Treatment of Asylum Seekers-Tenth Report of Session 2002- 07

to leave the UK⁹. UKBA uses this as a justification for the limited and restrictive nature of the support. Those in receipt of Section 4 are prohibited from receiving cash payments and instead receive £35 per week in supermarket vouchers. This makes it difficult for individuals to fulfill basic requirements such as travel costs and buying clothing.

Attempts by the refugee sector and others to have cash provided instead of vouchers have been met by strong governmental opposition. In a letter sent to the National Asylum Stakeholders' Forum (NASF) in 2006, the Home Office stated that 'whilst ensuring support for the most vulnerable, Section 4 support must be recognized as the short-term measure it was designed to be.'¹⁰

In fact, far from being the temporary form of support, the Citizens Advice report *Shaming Destitution* shows that the average length of time spent on Section 4 support is 9 months¹¹. Asylum Support Appeals Project has also represented a number of individuals who have been in receipt of Section 4 support for over two years.

ASAP is particularly concerned by the narrowness of the qualifying criterion 'taking all reasonable steps to leave the UK'. Refused asylum seekers encounter particular difficulties in accessing or maintaining Section 4 support under this heading. The following section looks at this in more detail.

Taking all reasonable steps to leave the UK: the official version

A refused asylum seeker can access Section 4 support if they are considered to be 'taking all reasonable steps to leave the UK'. The measures used to determine whether someone is considered to be 'taking all reasonable steps to leave the UK' are outlined in the policy instructions given to UKBA staff processing applications. These instructions advise staff to look at two factors¹²:

- **Assisted Voluntary Return:**

Consideration is given to whether the person has applied for Assisted Voluntary Return (AVR). Generally, AVR relates to voluntary return programmes run by the International Organisation for Migration (IOM). IOM provides return and reintegration assistance to refused asylum seekers. This includes a one way flight to their country of origin, a small relocation grant and, in some cases, assistance to help them resettle in their home countries.

- **Complying with the re-documentation process:**

In cases where an individual does not possess a travel document, UKBA instructs staff to consider whether they are 'fully complying with the re-documentation process such as providing evidence to support an application for an emergency travel document'.

⁹ <http://www.ind.homeoffice.gov.uk/aboutus/workingwithus/workingwithasylum/support/section4/>

¹⁰ Letter to voluntary sector members of the National Asylum Stakeholders Forum (NASF)

¹¹ Citizens Advice Bureau: Shaming destitution NASS section 4 support for failed asylum seekers who are temporarily unable to leave the UK June 2006

¹² <http://www.iomlondon.org/aboutus.htm> and

<http://www.ind.homeoffice.gov.uk/aboutus/workingwithus/workingwithasylum/support/section4/>

However, the reality of meeting UKBA's requirements is not a straightforward process for many nationals. As a result of the narrowness of qualifying criteria, many refused asylum seekers become destitute despite being desperate to leave the UK.

As one of the case studies below illustrates, many refused asylum seekers will be unable to provide sufficient evidence to prove they are 'taking all steps reasonable steps to leave the UK' and as a consequence will be denied support.

In addition, applicants that are successful in the first instance run a serious risk of losing support under UKBA's Section 4 review procedures. UKBA's instructions to caseworkers state that 'if the applicant continues to be eligible for Section 4 support under this criterion, ongoing reviews after the 2nd review must be every three weeks until the applicant has left the UK'¹³. UKBA's emphasis is clearly on leaving the UK as soon as possible and the applicant must continually prove ongoing entitlement. The instructions do not recognise the serious problems many refused asylum seekers face when trying to leave the UK.

Barriers to return: lack of travel and identity documents

The heart of the problem is that a substantial number of refused asylum seekers in the UK do not possess any travel or identity documents, and yet the 'taking all reasonable steps' criterion does not take this into account.

There are various reasons why refused asylum seekers might not have documents. For example as Amnesty International documented, many of those fleeing persecution or civil war 'cannot safely obtain travel documents or valid visas from authorities that are persecuting them'¹⁴. In addition, due to the progressive tightening of border controls in the UK, many asylum seekers are forced to enter the UK clandestinely, often with the help of traffickers or smugglers. On arrival they will often then be instructed to return or destroy any documents they hold¹⁵.

In the absence of travel documents, individuals wishing to leave can apply for what is known as an EU Letter, although this is not useful to everyone. An EU letter is basically a temporary, one way valid travel document issued by the Home Office. However, there are only certain countries which accept EU letters, and among those that don't are some of the major refugee producing countries, such as Sudan, Zimbabwe Iran and the Democratic Republic of Congo.

If the country does not accept an EU travel letter, the person wishing to return will need to contact their embassy and apply for a travel document. This can either be a passport or an Emergency Travel Document (ETD). Again, for the reasons listed earlier, this is not as clear-cut as it seems. ASAP's work with refused asylum seekers over the past three years, shows that some nationals will encounter serious problems when trying to obtain travel documents from their embassies or High Commission. We are aware that Eritreans,

¹³ <http://www.ind.homeoffice.gov.uk/aboutus/workingwithus/workingwithasylum/support/section4/>

¹⁴ Amnesty International: Down and Out in London November 2006

¹⁵ Amnesty International: Down and Out in London November 2006

Ethiopians (where there is mixed parentage) Iranians, Algerians, Chinese, Palestinians and Somalis often experience this problem.

The case below illustrates that serious impediments to return are not easily conceded by the Home Office¹⁶.

A recent High Court decision concerning four Algerians highlights the difficulties faced by that group when trying to obtain travel documents to leave the UK. Four individuals had made an application to the High Court for an order which would secure their release from detention. They had been detained by the Home Office following deportation orders. The period spent in detention ranged from twelve to eighteen months. None of the individuals concerned possessed travel documents and, during their stay in detention all had provided information for the purposes of obtaining an ETD from the Algerian Embassy. The information included fingerprints, photographs and details of where they and their families had lived in Algeria. The Algerian Embassy rejected all four applications on the grounds that they were not satisfied that they were Algerian citizens. Given the time they had spent in detention and the fact that there appeared to be no immediate prospect of them being given travel documents, the judge ordered the release of all but one of the men on the grounds that their lengthy detention had become unlawful.

During research into the causes and extent of destitution among refused asylum seekers in the UK in 2006, Amnesty International wrote to the Home Office asking for a list of countries that refuse to issue their nationals with travel documents. In response the Home Office stated that 'we are not aware of any country that refuses to issue Emergency Travel Documents or passports....as a matter of policy. Some countries have stricter issuing criteria than others and some governments have no representation in the UK. Both factors can make obtaining emergency travel documents an extremely lengthy process'¹⁷.

Case studies: moving the goalposts

The following three case studies highlight the problems many refused asylum seekers will face when trying to prove they are taking all reasonable steps to leave the UK to access or maintain Section 4 support. They involve clients assisted by ASAP's duty scheme at the Asylum Support Tribunal. Two of the cases concerned individuals who were having their support terminated on the grounds that they had not continued to take enough reasonable steps to leave the UK. The third was a refusal of support on the grounds that the individual had failed to prove that they had taken all reasonable steps to leave the UK.

¹⁶<http://www.bailii.org/ew/cases/EWHC/Admin/2008/142.html>.

¹⁷ Amnesty International: Down and Out in London November 2006

Case Study 1: No place to return

Mr S is Bidoon. He was born in Kuwait but moved to Iran when he was a teenager. He held neither residency rights nor nationality of either country, which effectively rendered him stateless. Bidoons originate from Iran, Iraq, Syria and other Gulf states. They are people who were 'left without a nationality' when Kuwait became independent in 1961, followed by Bahrain and Qatar and the formation of the United Arab Emirates in 1971¹⁸.

Mr S was awarded Section 4 support in November 2006 on the grounds that he was taking reasonable steps to leave the UK. Over the course of the next two years he made several applications to return with IOM but due to the lack of travel documentation, all of these applications were unsuccessful. Desperate to return, Mr S had also approached both the Iranian and Kuwaiti Embassies on a number of occasions for assistance obtaining travel documents. Both of the embassies refused his requests on the grounds that he was not one of their nationals. One of the embassies even threatened to call the police if he approached them again.

As a last resort, his local advice centre contacted the Immigration Services on his behalf to see if they could assist. They wrote back saying that without a passport or birth certificate there was little they could do. His MP also intervened and wrote to the Home Office outlining the Mr S' predicament. This letter included a request that in light of the client's inability to leave the UK either voluntarily or forcibly, he should be awarded leave to remain in the UK outside of the immigration rules.

In July 2007 UKBA wrote to Mr S informing him that his support was to be withdrawn as he no longer met the criteria. They noted that on 24 July 2007 his application to return with IOM had effectively lapsed as over three months had passed without progress since he submitted the application. We understand from UKBA that applications to return under IOM programmes are considered as withdrawn if the person is not assisted to return within three months. This approach is outlined in UKBA's Section 4 review guidelines to staff. This states 'that support will not usually be discontinued until after three months as a return can take up to three months to complete'¹⁹.

They also noted that the client had stated that he was unable to obtain a travel document from the Iranian embassy, but informed him that there were alternative procedures he could follow to facilitate his departure from the UK. These included:

Nationality: Bidoon

Country of Return: Stateless

Length of time trying to leave UK:
Over 2 years

Steps taken to leave UK:

- Several applications to IOM
- Several visits to Kuwaiti and Iranian Embassies
- Approached Immigration Services for advice and return
- Sought assistance from MP

¹⁸ Refugees: Number 147 Issue 3 2007- The strange hidden world of the stateless. UNHCR

¹⁹ <http://www.ind.homeoffice.gov.uk/aboutus/workingwithus/workingwithasylum/support/section4/>

- Approaching the IOM for assistance in obtaining an emergency travel document from the Iranian embassy
- Approaching the Home Office for help in obtaining an Emergency Travel Document on his behalf
- Approach the immigration service in relation to an enforced departure from the UK

These instructions had been issued to the client despite UKBA having been provided with a wealth of evidence from the Mr S' representatives and MP showing he was doing everything in his power to leave the UK.

Case Study 2: Displaced refugees

Mr F is a Palestinian National. He was born in the Rafah refugee camp which is in the Gaza Strip. He was awarded Section 4 support in July 2007 on the grounds that he had made an application for voluntary return with IOM and so met the criterion of 'taking all reasonable steps to leave the UK'. In November 2007 UKBA wrote to Mr F informing him that they were removing his support. This was on the grounds that it had been over three months since he made an application to return under IOM's programme, and in line with UKBA policy (stated above) this was now considered as withdrawn.

Mr F appealed this decision and in response UKBA sent him a letter setting out in full the reasons why they believed he no longer met the criteria for support. They stated that 'in order to demonstrate that he is taking all reasonable steps to leave the UK, the applicant is expected to show he applied for Assisted Voluntary Return (AVR) through IOM and is actively working with them to facilitate his return. In the alternative he is expected to demonstrate that he has supplied evidence to support an application for an ETD with the Immigration Service and Documentation Unit (ISDU) or that he can establish in other ways that he is proactively working to facilitate his return'.

Mr F informed us that his application to return with IOM had been withdrawn by IOM due to his lack of travel documentation. It is our understanding that this is a common problem for the majority of Palestinians in the UK. ASAP has seen a letter from the Palestinian General Delegation in London to another Palestinian on 3rd October 2006. The letter confirms that, 'by virtue of the Oslo accord signed between Israel and the Palestinian Liberation Organisation, 'all Palestinian passports are issued only in Palestine for Palestinians who are resident in the West Bank and the Gaza Strip'²⁰. What this letter makes clear is that any Palestinians not in possession of a passport are unlikely to be able to obtain one in the UK.

In addition, the Home Office's own Operational Guidance Notes on Israel, Gaza and the West Bank acknowledges 'that millions of Palestinians are not only refugees, but are stateless as well. Following the war in 1948, more than 750,000 Palestinians were displaced and became refugees in neighbouring Arab States and in lands now occupied by Israel. Furthermore their claim to a right of return to their homes has been

Nationality: *Palestinian*

Country of Return:
Palestine

Length of time trying to leave UK:
2 years

Steps taken to leave UK:
2 applications to IOM

²⁰ Asylum Support Tribunal: Reason Statement ASA /07/03/14864 2007

disputed by Israel, leaving them stateless'.²¹ Given these facts it is very difficult to see how Mr. F could have complied with the requests issued by UKBA as there were no other steps he could have taken in the UK to obtain a travel document.

Case Study 3: Proving your nationality

Ms C is an Eritrean national of mixed Eritrean and Ethiopian parentage. She applied for Section 4 support on the basis that she 'was taking all reasonable steps to leave the UK'. This included signing up with IOM and approaching the Eritrean embassy to apply for a passport. On the face of it, both actions should have been enough to guarantee her support as they generally met the requirements set out in the Section 4 guidelines to UKBA staff (see above). However, the client was refused Section 4 support on the basis that she 'had not supplied documentary evidence that you have endeavoured to acquire the necessary documentation from the Eritrean embassy to support your application for travel documentation'.

Ms C informed us that she had been interviewed twice by the Eritrean embassy. The purpose of these visits was to establish her identity and to apply for a passport. After six months she was verbally informed by the embassy that they were not satisfied that she was Eritrean and therefore had no right to live in Eritrea.

The guidelines issued by the Eritrean embassy state 'a person who is with (sic) an Eritrean father/mother WOULD BE ELIGIBLE for Eritrean nationality as long as the person provides 3 Eritrean witnesses'²². This is also confirmed by the Home Office Operational Guidance Notes on Eritrea²³.

It is ASAP's understanding from practitioners working with Eritreans that this requirement causes serious problems for many undocumented Eritreans in the UK. In Ms C's case she was unable to locate anyone in the UK who knew her from Eritrea. The second time she visited the embassy she was accompanied by two friends, both of whom she met in the UK. The embassy staff had refused to accept their evidence as sufficient because they could not confirm her origins in Eritrea, having only met her in the UK.

The other problem Ms C experienced, and which is common to many undocumented refused asylum seekers, is that few embassies are willing to provide formal letters confirming that the person has either visited them or, more importantly, has been refused a travel document. Again this is not something the Home Office appears willing to take on board. This issue was raised by practitioners at the National Asylum Support Forum (NASF) in 2004 to the then Minister of State for

Nationality: Eritrean

Country of Return: Eritrea

*Length of time trying to leave UK:
2 and a half years*

Steps taken to leave UK:

- 2 application to IOM
- Several visits to the Eritrean Embassy providing witnesses to testify she was Eritrean

²¹ www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/

²² Embassy of the State of Eritrea, London: Our General Criteria for Citizenship

²³ www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns

Immigration. In response, he is recorded as saying that 'it would not appear reasonable for the Home Office to demand documentation from an uncooperative embassy as evidence that an applicant has attempted to return to their country of origin'²⁴.

Conclusion

Section 4 support is not accessible to the vast majority of refused asylum seekers. This is mainly due to the narrowness of its criteria and the fact that it fails to take into account the various problems asylum seekers face when they come to the end of the asylum process in the UK.

ASAP's view, formed from evidence presented in this report, is that UKBA is refusing to acknowledge the barriers many undocumented asylum seekers face when trying to leave the UK. UKBA's narrow criterion places an unrealistic demand on failed asylum seekers to prove they are taking all reasonable steps to return. This prevents many people from accessing the support to which ASAP believes they are entitled and causes many thousands of refused asylum seekers to be made destitute. Unable to leave, they become stranded in the UK through no fault of their own.

ASAP's case studies highlight the pressures that are placed on individuals to prove an ongoing entitlement. As there is no realistic understanding of what constitutes 'taking all reasonable steps to leave the UK', individuals are often subjected to a 'one size fits all' approach by UKBA. This fails to take into account individuals' personal circumstances and places what ASAP considers an unreasonable burden on refused asylum seekers to prove they are doing everything in their power to leave the UK. Unable to demonstrate that they continue to 'take all reasonable steps to leave the UK', even more people will have their support withdrawn and join the growing numbers of destitute asylum seekers in the UK.

²⁴ Meeting of the National Asylum Support Forum (NASF) 27/05/04

Based on the findings of this report, ASAP recommends that:

- UKBA develops clear, realistic and practical guidelines concerning what constitutes 'taking all reasonable steps to leave the UK
- UKBA suspends the policy of regularly reviewing an individual's Section 4 support where there is evidence that the person has done all in their power to leave the UK
- UKBA recognises that there are certain countries to which refused asylum seekers cannot return at the moment
- UKBA offers a temporary form of leave to individuals where there is clear evidence that they are unable to leave the UK
- UKBA provides support to individuals who appear to be stateless and who have demonstrated that there is no country that is willing accept them as their national
- UKBA recognises that many embassies are often unwilling to provide evidence that an individual has approached them and applied for a travel document, or evidence that they refused to recognise someone as their national
- UKBA recognises that where the International Organisation for Migration is unable to assist someone to voluntarily return due to problems with travel documents, this person is unlikely to be able to return by other means so should be considered as having taken all reasonable steps to leave the UK

Update: July 2008

On 14 July 2008 UKBA wrote to the National Asylum Stakeholders Forum proposing changes to the conditions of provision of Section 4 support. UKBA are proposing the following:

The phrase “all reasonable steps to leave the UK” has been removed and the steps necessary to be eligible for support have been specified. Thus, in order to establish eligibility, it will be necessary to secure acceptance on a voluntary returns programme or present evidence in person to a representative of the Secretary of State, demonstrating that travel arrangements to leave the UK have been made. The current reference to “complying with attempts to obtain a travel document” has been removed as it was considered unclear. Instead, it will be a condition for the continued provision of accommodation that the supported person comply with specified steps to facilitate departure from the UK, including applying for a travel document

ASAP sees this tightening of the criterion as potentially adding to the barriers refused asylum seekers already face when trying to prove they have applied for travel documents. Although ASAP welcomes attempts to clarify the criteria for Section 4 support, this proposal appears to increase the rigidity of the condition and this is likely to present a further problems for destitute applicants who are unable to leave the UK through no fault of their own.